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10/726,298	12/01/2003	Georg Michelitsch	282734US8X	6105
22850 7590 01/31/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER TERMANINI, SAMIR	
			ART UNIT 2178	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/726,298

Applicant(s)

MICHELITSCH ET AL.

Examiner

Samir Termanini

Art Unit

2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>N/A</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

BACKGROUND

1. This Final Office Action is responsive to the following communications:
Request for Continued Examination (R.C.E.) filed on 1/17/2008.
2. Claim(s) 15-27 are pending. Claim(s) 15 and 19-20. Claims are 24-27 newly added. are independent in form.

RESPONSE TO AMENDMENT

3. The Amendments (filed 11/19/2007 and 1/17/2007) overcome the 35 U.S.C. § 112 rejection of claims 15-23 and 19-20 that were made in the previous Office Action (Mail dated: 7/18/2007). Therefore, these rejection(s) have been withdrawn..
4. Arguments concerning the Examiner's Rejections of claims 15-16 and 19-22 under 35 U.S.C. §102(b) as being anticipated by *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) made in the previous Office Action (Mail dated: 7/18/2007) have been fully considered but are not persuasive. Therefore, the rejection(s) have been maintained.
5. Arguments concerning the Examiner's Rejections of claims 17 under 35 U.S.C. §102(b) as being anticipated by *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) made in the previous Office Action (Mail dated: 7/18/2007) have been fully considered and are persuasive. Therefore, the rejection(s) have been withdrawn..

6. Arguments concerning the Examiner's Rejections of claims 18 and 23 under 35 U.S.C. §103(a) as being unpatentable over *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) in view of Kuga (U.S. Patent No: 5,686,940 A) made in the previous Office Action (Mail dated: 7/18/2007) have been fully considered and are persuasive. Therefore, the rejection(s) has been withdrawn.

CLAIM OBJECTIONS

7. Claim 25 objected to because of the following informalities:

Claim 25 states:

25. The method of claim 24, wherein said display items are represented by words, characters and/or graphical symbols.

With respect to **claims 25** it is not clear if the forward slash '/' in "and/or" is intended to conjunctively, disjunctively, or inclusively concatenate those elements immediately before and after it. More specifically, it is unknown which of the limitations are included in the claimed invention: (1) those before and after; (2) those before or after or both; or (3) those both before and after, or only after.

Appropriate correction is required.

Claim Rejections-35 U.S.C. § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. **Claims 24, and 26-27** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to **claim 24**, the term "depending on their importance" is a relative term which renders the claim indefinite. The term "depending on their importance" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

With respect to **claims 26 and 27**, the term "less important" is a relative term which renders the claim indefinite. The term "less important" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Furthermore, the scope of claim language cannot depend solely on the subjective opinion of an individual practicing the invention.

CLAIM REJECTIONS-35 U.S.C. §102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. **Claims 15-17, 19-22, and 25** are still being rejected under 35 U.S.C. 102(b) as being anticipated by *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1).

I. CITATION OF PRIOR ART

A reference to specific paragraphs, columns, pages, or figures in a cited prior art reference is not limited to preferred embodiments or any specific examples¹. It is well settled that a prior art reference, in its entirety, must be considered for all that it expressly teaches and fairly suggests to one having ordinary skill in the art². Stated differently, a prior art disclosure reading on a limitation of Applicant's claim cannot be ignored on the ground that other embodiments disclosed were instead cited. Therefore, the Examiner's citation to a specific portion of a single prior art reference is not intended to exclusively dictate, but rather, to demonstrate an exemplary instance where the disclosure is commensurate with the specific limitation(s) being addressed.

III. PRIOR ART ANTICIPATION OF CLAIMED LIMITATIONS.

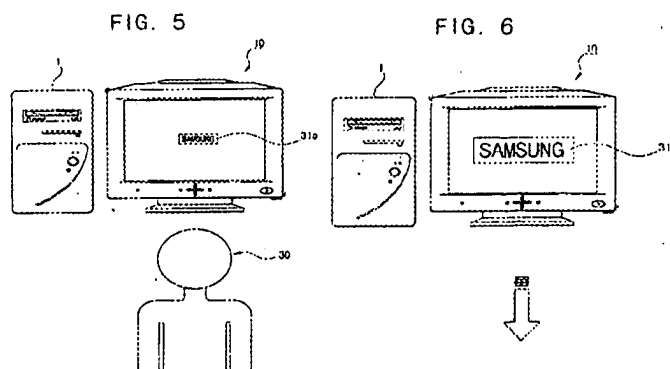
As to independent **claim 15**, *Lee* describes: a method for operating a display device ("...display apparatus 10 ...," para. [0040]), comprising: generating user position

¹ *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

² *Upsher-Smith Labs. v. Pamlab, LLC*, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005); *In re Fritch*, 972 F.2d 1260, 1264, 23 USPQ2d 1780, 1782 (Fed. Cir. 1992); *Merck & Co. v. Biocraft Labs., Inc.*, 874 F.2d 804, 807, 10 USPQ2d 1843, 1846 (Fed. Cir. 1989); *In re Fracalossi*, 681 F.2d 792, 794 n.1, 215 USPQ 569, 570 n.1 (CCPA 1982); *In re Lamberti*, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976); *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969).

information of a user in relation to a display of said display device ("...distance between the display apparatus 10 and a user...", para. [0030]), wherein said user position information is descriptive of a distance of the user with respect to said display ("...according to the distance between a user and the display...", para. [0029]); changing a display mode for displaying information on said display depending on said user position information ("...sensed by the distance sensor 11 and adjusts a size of an image on the basis of the read image displaying ratio data...", para. [0029]), wherein in said display mode an amount of said displayed information depends on said user position information ("...displaying ratio data storage part 3 according to the distance between a user and the display apparatus ...," para. [0029]); and displaying said information on said display based on said display mode ("...displaying ratio data, and an image displaying ratio setting ...," para. [0029]; See also see S9 of Fig. 2).

As to dependent **claims 16–17**, which depends from claim 15, *Lee* further discloses "...According to the first embodiment of the present invention, the video card 7 can be controlled by a video card control program such as a text size adjusting function of a control board provided in the operating system....," para. [0033]: If a user is in a first position (closer distance) with respect to the display the information includes an amount of text that is larger than what it would be if the user was in a second position (farther distance) with respect to the display. See Figures 5 and 6, reproduced below.



As to independent **claim 19**, this claim differs from claim 15 only in that it is directed to a computer readable medium defined by the process of claim 15. *Lee* describes, ("...the present invention provides a method for adjusting an image size of a display apparatus, a system for the same, and a media for recording a computer program therefor, in which the size of an image is automatically adjusted according to a change of a distance between the display apparatus and a user....," para. [0043])(emphasis added) . Accordingly, this claim is rejected for the same reasons set forth in the treatment of claim 15, above.

As to independent **claim 20**, *Lee* further describes: a display device comprising: a display configured to display information ("...this configuration, an image such as a letter, a picture, etc. displayed on a display apparatus is automatically enlarged/reduced according to a change of a distance between the display apparatus and a user, so that the user can see the image easily regardless of the distance between

the display apparatus and himself/herself....," para. [0042]). Therefore this claim is rejected under for the additional reasons set forth in the treatment of claim 15.

As to dependent **claims 21-22**, which depends from claim 20, *Lee* further describes: a display device comprising: a display configured to display information ("...displayed on a display apparatus....," para. [0042]). Therefore this claim is rejected under for the additional reasons set forth in the treatment of claims 16 and 17, respectively.

As to dependent **claim 25**, which depends from claim 24, *Lee* further shows words (e.g. see Figs. 5 and 6 above).

CLAIM REJECTIONS-35 U.S.C. § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claim 17** is rejected under 35 U.S.C. 102(b) for being obvious over by *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) in view of *Good*, L., *Bederson*, B. B., *Stefik*, M.,

Baudisch, P. (April, 2002). Automatic Text Reduction for Changing Size Constraints pp. 798-799 ("*Good*").

As to dependent **claims 17**, *Lee* further disclosed the limitations of claim 16 treated above (i.e. "...According to the first embodiment of the present invention, the video card 7 can be controlled by a video card control program such as a text size adjusting function of a control board provided in the operating system....," para. [0033]): If a user is in a first position (closer distance) with respect to the display the information includes an amount of text that is larger than what it would be if the user was in a second position (farther distance) with respect to the display.

Lee differs from claim 15 in that re-phrasing is not clearly shown. *Good* teaches rephrasing on computer displays (p.1) when size constraints dynamically change p.1, see also fig. 1, reproduced below:

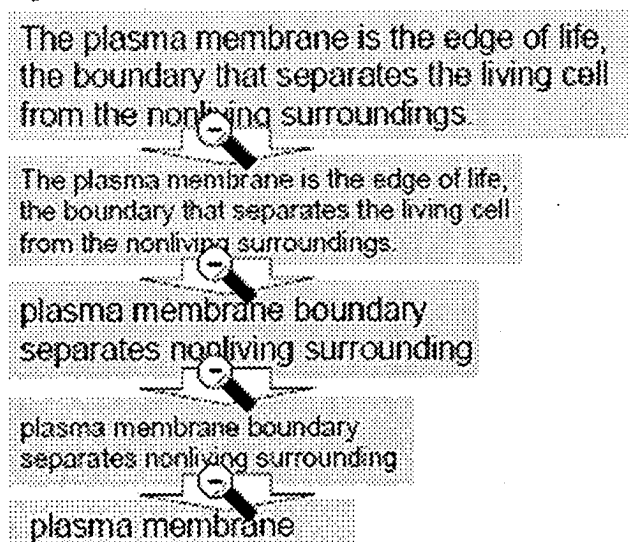


Figure 1: The text reduction technique used in our prototype. This technique automatically shortens text and reduces font size in order to meet the user's space reduction request.

Good rephrases automatically upon the changes ("...the system automatically replaces the current representation with a shortened version of the text at the original font size.," *Good*, Page 2)

It would have been obvious to one ordinary skill in the relevant field at the time the invention was made to use the rephrasing taught in *Good*, as claimed, with the method and device of *Lee* because re-phrasing is recognized to be a solution that is advantageously suitable for the problem changing space requirements.³ ("We believe that scalable text, in addition to increasing practical screen size, has the potential to assist users in abstraction. Using reduction techniques such as eliminating common words may help users to more easily identify patterns such as rare, recurring key words or related concept terms. " (*Good*, Page 2)

14. **Claims 18 and 23** rejected under 35 U.S.C. 103(a) as being unpatentable over *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) in view of *Kuga* (U.S. Patent No. 5,686,940 A) and *Good*, L., Bederson, B. B., Stefik, M., Baudisch, P. (April, 2002). Automatic Text Reduction for Changing Size Constraints pp. 798-799 ("*Good*").

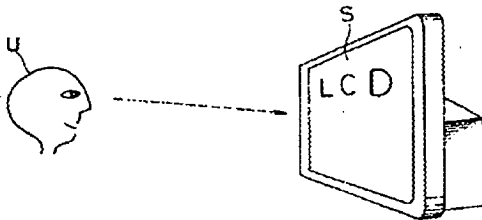
As to dependent **claim 18**, which depends from claim 15, *Lee* taught the limitations addressed in the treatment of claim 15, above. Specifically, a method for operating a display device ("provided on a display apparatus", Abstract), comprising: generating user position information of a user in relation to a display of said display

³ In resolving obviousness issues, a finding that there is no teaching-suggestion-motivation does not establish patentability if other indicia of obviousness are present. *KSR Int'l v. Teleflex Inc.*, 82 USPQ2d at 1396-97.

device ("distance between the LCD 1 and the upper half of the user's body is detected," col. 3, lines 24-30), wherein said user position information is descriptive of a distance of the user with respect to said display ("whether the upper half of the user's body is near the LCD 1 or far from the LCD 1 is detected. " col. 3, lines 24-30), changing a display mode for displaying information on said display depending on said user position information ("display of a moving image is made according to the detected distance." col. 1, lines 59-63), wherein in said display mode an amount of said displayed information depends on said user position information and displaying said information on said display based on said display mode ("The changeover between the enlargement and the reduction of an image and between the scrolling and the stopping of a text and between the moving display and the stationary display of a moving image is made according to the detected distance." col. 1, lines 59-63). However, *Lee* fails to clearly disclose that the information includes a first amount of semantic content in a first position, or a second amount of semantic content in a second position,.

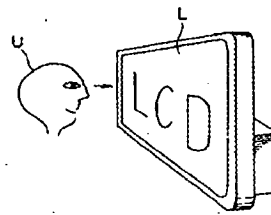
Kuga teaches that in a first position varying the amount of text based upon the distance from a LCD, ("...the upper half of the user's body is moved away from the LCD 1 to perform the high-speed scrolling, and when a desired part of the displayed image is approached, the upper half is slightly moved toward the LCD 1 to perform the low-speed scrolling. When the desired part is displayed, the upper half is further moved toward the LCD 1 to stop the scrolling.," col. 4, lines 50-59) wherein said first position represents a closer position to said display than said second position and said first amount of semantic content is larger than said second amount of semantic content.

FIG. 2



For example, in Fig. 2 the distance between a user U and the LCD 1 is long, so that a reduced image S is displayed on the LCD 1 (col. 3, lines 37-45).

FIG. 3



For example, in Fig. 3 the distance between the user U and the LCD 1 is short, so that an enlarged image L is displayed on LCD 1 (col. 3, lines 37-45).

Lee and *Kuga* don't clearly show the information including a first amount of semantic content in a first position, or a second amount of semantic content in a second position. *Good* is cited for teaching changing the text amount (semantic content) on computer displays (e.g. p.1) when size the constraints dynamically change, see also fig. 1, reproduced below:

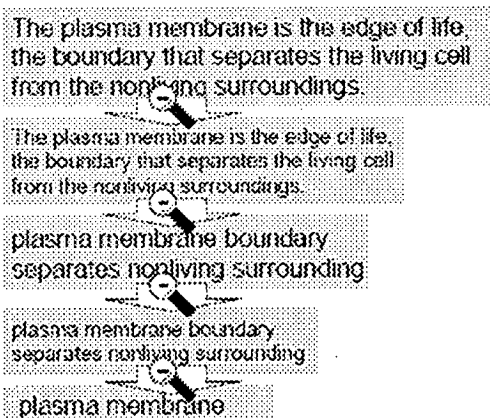


Figure 1: The text reduction technique used in our prototype. This technique automatically shortens text and reduces font size in order to meet the user's space reduction request.

Good automatically changes the semantic content upon the size changes ("...the system automatically replaces the current representation with a shortened version of the text at the original font size.," *Good*, Page 2).

It would have been obvious to one ordinary skill in the relevant field at the time the invention was made to have used the resizing method taught in *Good*, as claimed, with the method and device of *Lee* and *Kuga* because *Kuga* and *Lee* are further directed to the same problem of adjusting the size of an image automatically according to a change of a distance between a display apparatus and a user⁴. Also, the teachings in *Kuga* provide a motivation for using the method taught by *Lee* (i.e. the font size is continuously increased when increasing the distance between a user and a display and that the font size is continuously decreased when decreasing the distance between a user and a display). Further, *Kuga* expressly suggests the that the manual process of changing displays is cumbersome and inefficient especially for handicapped people (including those with visual impairments):

The change of displays is usually made by the user by operating an input means[.] However, when the display modes are changed by such operations, delay is readily caused in the man to machine interface, and the operations themselves are complicated. In addition, the operations are sometimes very difficult for physically handicapped people. (*Kuga*, col. 1, lines 31-46).

Good also is directed to and suggests assisting users, "We believe that scalable text, in addition to increasing practical screen size, has the potential to assist users in abstraction. Using reduction techniques such as eliminating common words may help

⁴ Thereby, the change of display is made by a very natural movement of the viewer that the upper half of the body is moved forward or backward." col. 1, line 65 -to- col. 2, line 3 *Kuga*.

users to more easily identify patterns such as rare, recurring key words or related concept terms. " (*Good*, Page 2).

As to dependent **claim 23**, this claim differs from claim 18 only in that it is directed to a product defined by the process of claim 18. Accordingly, this claim is rejected for the same reasons set forth in the treatment of claim 18, above.

RESPONSE TO ARGUMENTS

15. Applicant arguments, see pp. 6-12 filed 1/17/2008, in response previous Office Action (Mail dated: 7/18/2007), have been fully considered in the following way:

16. No arguments were presented addressing the 35 U.S.C. § 112 rejection of claims 15-23 and 19-20 made in the previous Office Action (Mail dated: 7/18/2007). However, the amendments (filed 11/19/2007 and 1/17/2007) overcome the 35 U.S.C. § 112 rejection of claims 15-23 and 19-20 that were made and these rejection(s) have been withdrawn.

17. Arguments concerning the Examiner's Rejections of claims 17 under 35 U.S.C. §102(b) as being anticipated by *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) made in the previous Office Action (Mail dated: 7/18/2007) and the Examiner's Rejections of claims 18 and 23 under 35 U.S.C. §103(a) as being unpatentable over *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) in view of *Kuga* (U.S. Patent No. 5,686,940 A) made in the previous Office Action (Mail dated: 7/18/2007) have been fully considered and are persuasive. Therefore, theses rejection(s) have been withdrawn.

18. Applicant's remaining arguments with respect to claims 17-18 and 23 have been considered but are moot in view of the new ground(s) of rejection, addressed, *supra*.

19. Arguments concerning the Examiner's Rejections of claims 15-16 and 19-22 under 35 U.S.C. §102(b) as being anticipated by *Lee* (U.S. Pre-Grant Pub. 2003/0234799 A1) made in the previous Office Action (Mail dated: 7/18/2007) have been fully considered but are not persuasive.

Independent Claims 15, 19 and 20, while directed to alternative embodiments, recite substantially similar features and are addressed collectively.

I. Applicant's arguments (see Remarks filed, 1/17/2008) emphasize:

Thus, *Lee* describes that a size of an image is adjusted based on the location of a user, not that an amount of data being displayed is adjusted.

Further, the Advisory Action of December 27, 2007 (herein, the Advisory Action) reproduces Figs. 5-6 of *Lee* and asserts that "the 'amount of text' can exclusively describe the volume or portion of the screen it occupies, especially when the claimed amount is being 'larger.'" Applicants respectfully traverse this assertion, as *Lee* fails to disclose adjusting an amount of displayed information (e.g., text), whatsoever. Instead, Figs. 5-6 merely show that the same exact text (e.g., same amount of...

The Examiner respectfully disagrees and points out that: Applicant's specification, *inter alia*, states:

According to a further alternative of the present invention by selecting and/or changing said display mode and/or said display information itself one or any arbitrary combination or plurality of the following aspects may be realized:

the size of the image and/or of parts thereof are adapted,

the resolution of the image and/or of parts thereof are adapted,

the representation of details of the image and/or of parts thereof is adapted, in particular with respect to the amount, the size, the color, the view angle of the user is compensated, the torsional orientation between the view axis of the user and the display axis of the display unit is compensated, the semantic contents of the image and/or of parts thereof are adapted.

(at page 4). Therefore the claim is not limited in the way Applicant is arguing (the "amount" in Claims 15, 19 and 20 are not limited to quantity). Figs. 5-6 do not merely show the same exact text, Conversely, the amount of text occupying the respective screens differ. Although claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004).

CONCLUSION

20. All prior art made of record in this Office Action or as cited on form PTO-892 notwithstanding being relied upon, is considered pertinent to applicant's disclosure. Therefore, Applicant is required under 37 CFR §1.111(c) to consider these references fully when responding to this Office Action.

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21. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samir Termanini at telephone number is (571) 270-1047. The Examiner can normally be reached from 9 A.M. to 6 P.M., Monday through Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Samir Termanini
Patent Examiner
Art Unit 2178



STEPHEN HONG
SUPERVISORY PATENT EXAMINER